

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3842 OF 2005

Mr.Dwarka Ranchodlal Mehta .. Petitioner

Vs.

Maharashtra Housing and Area
Development Authority & Anr. .. Respondents

Mrs.S.S.Deshpande for the petitioner

Mr.G.W.Mattos for the respondent no.1

CORAM : S.U.KAMDAR, J
DATED : 24TH NOVEMBER, 2005

P.C.:

1. By the impugned order the stay has been granted by the Appellate Officer against the order of eviction or direction that the sum of Rs.4 lacs should be deposited by the petitioner before the said authority. However, it has been brought to my notice that the companion writ petition for the same parties being writ petition no.1620 of 2004, the Division Bench has by order dt.21.2.05 has directed that till the disposal of the petition no further recovery should be made. In the light of the said order by Division Bench, the order passed

by the Appellate Officer cannot be sustained and thus requires to be quashed and set aside.

2. Accordingly the order dt.30.6.05 directing deposit of Rs.4 lacs is quashed and set aside. However, it is made clear that it will be open for the respondent to apply for modification of the order dt.21.2.04 in Writ Petition No.1620 of 2004 in the light of the fact and circumstances narrated by the learned Govt.Pleader before me and also set out in affidavit filed in the present petition. In an event if the Division Bench passes an order directing recovery of any amount then the petitioner will be liable to do so irrespective of the fact that order dt.30.6.05, impugned herein has been quashed and set aside. In so far as possession of premises is concerned, the petitioner will not be evicted till orders passed in Writ Petition No.1620 of 2004. With the aforesaid clarification petition is disposed of accordingly. No order as to costs.

3. Parties to act on an ordinary copy of this order duly authenticated by the Personal Assistant

of this court.